

Message Text

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PASS FRB FOR DAHL, FOREIGN BANKING SECTION AND
TREASURY FOR DIRECTOR, INTERNATIONAL OPERATIONS DIVISION,
L'ENFANT PLAZA

E.O. 11652: N/A
TAGS: EFIN, IT
SUBJECT: BANK OF ITALY EXAMINATION OF US BRANCHES OF ITALIAN
BANKS: A REQUEST FOR CLARIFICATION OF LEGAL STATUS.

1. DRS. CARMELO OTERI OF BANK SUPERVISION DIVISION AND
LUIGI PATRIA OF THE FOREIGN DEPARTMENT OF THE BANK
OF ITALY (BOOI) CALLED ON TREASURY ATTACHE FRIDAY,
JULY 15, IN ORDER TO DISCUSS THE BOI'S EXAMINATION OF THE
NEW YORK BRANCH OF THE BANCA NAZIONALE DEL LAVORO CARRIED
OUT DURING JANUARY-FEBRUARY OF THIS YEAR. THE POINT OF DIS-
CUSSION WAS THE TEMPORARY INTERRUPTION OF THE EXAMINATION
BECAUSE OF A LEGAL SUIT BROUGHT BY A CUSTOMER (A DEPOSTIOR) OF
THE BANCA DEL LAVORO BRANCH, CHALLENGING THE PRESENCE OF THE
ITALIAN AUTHORITIES IN A US BRANCH. ALTHOUGH THE SUIT
WAS SHORTLY WITHDRAWN (THANKS, IT SEEMS, IN PART TO THE
GOOD OFFICIES OF THE NEW YORK STATE BANKING SUPERINTENDENT)
AND THE EXAMINATION PROCEEDED SMOOTHLY THEREAFTER, THE
INCIDENT RAISED QUESTIONS IN THE BOI ABOUT HOW SUCH
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A CASE MIGHT BE DECIDED IN A US COURT, SHOULD SOME FUTURE
CASE GO THAT FAR. DR. OTERI TOLD TREASURY ATTACHE THAT
IN ORDER TO ESTABLISH LEGAL GROUNDS FOR ITS EXAMINATIONS
IN THE UNITED STATES, A NEW YORK LAWYER HAD ADVISED
THE BOI TO SEEK: (1) SOME FORM OF ASSURANCE FROM
THE COURT, (2) SEPARATE AGREEMENTS WITH THE PERTINENT
STATE BANKING AUTHORITIES, OR (3) AN INTERNATIONAL

AGREEMENT BETWEEN THE EXECUTIVE BRANCHES OF THE ITALIAN AND US GOVERNMENTS. THE BOI OFFICIALS ASKED THE HELP OF THE EMBASSY IN ASSURING EFFECTIVE RECIPROCITY BETWEEN US AND ITALY ON THIS BANK EXAMINATION QUESTION AND TREASURY ATTACHE PROMISED TO REPORT PROBLEM TO WASHINGTON AND SEEK GUIDANCE.

2. EMBASSY BELIEVES THAT IT WAS UNFORTUNATE THAT BOI ENCOUNTERED THIS PROBLEM ON ITS FIRST EXAMINATION TRIP TO UNITED STATES, BEFORE IT HAD OPPORTUNITY TO BUILD UP RECORD OF TROUBLE-FREE EXPERIENCES. TREASURY ATTACHE EXPLAINED ABOUT DUAL NATURE OF US BANKING SYSTEM AND THAT IN CASE OF ITALIAN BANKS IN UNITED STATES, WHICH ARE STATE-CHARTED NON-MEMBERS OF FEDERAL RESERVE, BOI WOULD PROBABLY HAVE TO RELY MAINLY ON VARIOUS STATE BANKING AUTHORITIES FOR SUPPORT IN CASES SUCH AS AROSE DURING EXAMINATION OF BANCA LAVORO NEW YORK.

3. IT SHOULD BE BORNE IN MIND THAT COMPTROLLER OF CURRENCY AND FRB EXAMINERS HAVE FOR YEARS CONDUCTED EXAMINATION OF US BRANCHES IN ITALY UNDER CLEAR UNDERSTANDING THAT ITALIAN AUTHORITIES COULD, IF THEY WISHED, EXAMINE ITALIAN BRANCHES IN UNITED STATES.

4. ACTION REQUESTED. EMBASSY WOULD APPRECIATE RECEIVING LIMITED OFFICIAL USE

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THE ASSESSMENT OF BANK REGULATORY AGENCIES IN WASHINGTON OF BOI EXAMINER'S TROUBLE AT BANCA DEL LAVORO NEW YORK AND BEST JUDGMENT AS TO WHAT, IF ANYTHING, BOI MIGHT TO DO AVOID SIMILAR DIFFICULTIES IN FUTURE. IT MIGHT ALSO BE USEFUL TO KNOW VIEWS OF STATE BANKING SUPERVISORY BODIES IN KEY STATES SUCH AS NEW YORK, ILLINOIS, CALIFORNIA AND TEXAS, AS TO WHAT AUTHORITY THEY HAVE TO ALLOW FOREIGN BANK SUPERVISORS TO EXAMINE BANKS WITHIN THEIR JURISDICTION. GARDNER

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